

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)
)
Implementation of the Pay Telephone)
Reclassification and Compensation)
Provisions of the Telecommunications)
Act of 1996)

CC Docket No. 96-128

DOCKET FILE COPY ORIGINAL

REPLY OF SOUTHWESTERN BELL TELEPHONE COMPANY

The Comments filed in this docket show general agreement with the goal of the Telecommunications Act of 1996 (Act) -- deregulation of the payphone industry, followed by full and vigorous competition among all Payphone Service Providers (PSPs). In this Reply, Southwestern Bell Telephone Company (SWBT) will reiterate that the only method of providing fair compensation for all completed local calls is to deregulate the local coin rate and allow PSPs to charge market-based rates. The Commission should adopt this strategy, which is fully consistent with the letter and spirit of the Act.

SWBT will also show that "net book" is the proper method of valuing the payphone assets of Local Exchange Carriers (LECs), that end users should fairly compensate PSPs for all Directory Assistance (DA) and Operator Services (OS) calls, that nothing in Section 276 imposes the pricing standards of Section 252 on pay telephone services, and that the Subscriber Line Charge (SLC) should be applied to all payphone lines, including those of LEC payphone operations.

I. **COMPENSATION FOR LOCAL SENT-PAID CALLS**

The Act's requirement of fair compensation for every completed payphone call can be achieved only by full deregulation of local sent-paid rates -- with the possible exception of public

at 13
ENCLOSURE

interest payphones. The Act specifically prohibits RBOC (Regional Bell Operating Company) PSPs from subsidizing the cost of local sent-paid calls with local exchange or exchange access revenues.¹ The Act further requires that all payphone elements be removed from the Carrier Common Line (CCL) Charge.²

Traditional local price regulation by state commissions, however, can and often does push local sent-paid compensation levels below cost and requires the BOCs to subsidize those rates through revenues from other telephone operations. If all payphone subsidies must be removed, and if payphone elements are to be removed from the CCL charge, then below-cost local rates will simply not allow fair compensation.

Significantly, the American Public Communications Council (APCC) agrees. Like SWBT, APCC pointed out that the NPRM omits the most obvious option for ensuring fair compensation for local coin calls: "The Commission could simply determine that the market should govern what rates are charged for local coin calls APCC believes that this option, which is a reasonable corollary to the Congressional mandate to remove LEC payphones from the regulated local exchange rate base, must be adopted if the Commission does not adopt a nationwide local coin rate of 40 cents per call."³

The RBOC Payphone Coalition (RPC) "believes that the market, not regulation, should determine the local coin rate. Indeed . . . the Commission has itself recognized that prices set by a competitive market benefit the general public and are by definition fair prices."⁴

¹ Section 276(a)(1).

² Section 276(b)(1)(B).

³ APCC at 13.

⁴ RPC at 20. Part of the coalition believes that a transition is needed on the road to full deregulation. SWBT, US West and BellSouth believe the payphone market is already fully

Even California notes that, with the removal of subsidies, local sent-paid rates may not recover costs: "The CPUC [California Public Utilities Commission] is concerned that if the LECs do not have the ability to recover interstate costs of subscriber lines, because CCL mechanisms are removed, there may be a question of whether the current \$0.20 charge for local coin pay phone calls . . . will fully recover cost."⁵

Local rates may rise when current subsidies are removed. The states, however, will be under tremendous pressure to keep sent-paid rates artificially low; thus, leaving the issue in state hands may contravene the Act's requirement of fair compensation for every completed call.⁶

Various options suggested by the NPRM are deficient. The Commission's setting of a nationwide rate, or of national guidelines to be followed by each state, would create large and complex regulatory proceedings where none are intended by the Act. A nationwide rate would, because of regional differences, be too high in some locations, too low in others.⁷ National guidelines would entail severe enforcement difficulties

The only solution to this problem happens to be the simplest one: total deregulation of local sent-paid rates -- after dealing appropriately with public interest payphones. The philosophical

competitive, and that full deregulation should be accomplished immediately, in accordance with the Act.

⁵ Comments of the People of the State of California and the Public Utilities Commission of the State of California at 15

⁶ An example of the problems which would be created by leaving local rates in state hands can be seen in the joint Comments of Maine, New Hampshire, New Mexico and Vermont. At page 3, these states argue that Section 276 of the Act applies only to BOC payphones. These states would apparently establish, in clear contravention of both the spirit and letter of the Act, different local rates for BOC and non-BOC payphones.

⁷ Moreover, a nationwide rate would limit new market entrants who might wish to price below established carriers.

underpinning of the Act is that competition ensures fair rates. The Comments filed herein demonstrate without contradiction that the payphone industry is highly competitive.

For example, in 1985, the Iowa Utilities Board completely deregulated local rates:

The Iowa Board in 1985 [emphasis in original] found payphones subject to competition and deregulated the provision of payphone service for both the local exchange company and the competitive payphone provider. All regulated telephone companies were required to remove the investment, cost, and revenue from the regulated books. If payphone revenue was not covering the cost to provide service, the providers were free to raise the rate. Iowa opposes a step backwards that would replace the current market control with regulation.

After the deregulation of the local coin call rate, as would be expected, some payphone providers raised the rates to test the market rate to determine what would be acceptable to the public. However, after eleven years of deregulation, by far the majority of Iowa payphones have a rate of \$.35 for a local call. While this is not the regulated rate in Iowa, it does appear to be what the market will bear.⁸

All of the theorizing in the world is no substitute for example. Iowa has deregulated local rates. The market has done the rest, consistent with the Act. The Commission should follow this example.

II. ASSET VALUATION

Most Comments support the classification of payphone assets as Customer Premise Equipment (CPE).⁹ The proper asset valuation, therefore, is "net book," consistent with past Commission CPE deregulation. SWBT concurs with the RPC that net book valuation provides the

⁸ Iowa at 2-3.

⁹ California PUC at 10-11; Sprint at 26-27; Virginia at 3; MCI at 15; Florida at 6; South Carolina at 2; Actel at 9-10; Ameritech at 12; AT&T at 18; RBOC Coalition at 23.

best surrogate for market valuation of assets and smooths the peaks and valleys associated with valuing both old and new technology.¹⁰

The Commission should not sanction attempts to transform asset valuation into a fire sale. For example, the Georgia Public Communications Association (Georgia) recommends an asset auction, similar to the wireless spectrum auctions which the Commission has recently held, in which potential buyers bid on payphones and location contracts. The highest bid wins, but LECs would be allowed to "buy back" their own payphone operations by matching the bid.¹¹

The Act, however, does not require LECs to divest their payphone operations to third parties. Moreover, unlike wireless spectrum, LEC shareowners have paid for payphone assets and own the business. The Georgia suggestion, and others like it, simply demonstrate the antipathy of certain parties to the concept of full and fair market-based competition.

SWBT also agrees with the RPC that existing nonstructural safeguards are adequate to protect against cross-subsidy concerns, and that structural separation should not be a requirement. Each LEC should decide whether to operate payphone services within the company or as a separate subsidiary. Existing nonstructural accounting safeguards are sufficient to accommodate either option.¹²

With the advent of price cap regulation and the elimination of sharing, incentive for cross-subsidization no longer exists. Increased costs no longer translate to increased rates. Thus, a

¹⁰ RPC Coalition at 27.

¹¹ Georgia at 16. The legality of this approach is obviously questionable.

¹² RBOC Coalition, Arthur Andersen attachment, "Calculation of Per-Call Compensation and Review of Accounting and Regulatory Treatment for Payphone Asset Reclassification," at 11-20.

telephone company will not seek to increase costs by subsidizing a nonregulated service. This is particularly true on the state level, where for years rates have been frozen and subject to price cap or other incentive regulation.

SWBT has expensed inside wire. The removal of the costs for inside wire will be adequately addressed by the removal of payphone costs from regulated rate elements. The wire itself should be owned by the payphone provider, as the wire is an integral part of the service provided, which includes the CPE to which the wire is attached. Further, market forces, guided by location owner preference, will determine ownership of the wire. That is, contract negotiations between the payphone provider and the location owner will govern this issue. It should not be subject to any regulatory constraints.

III. DIRECTORY ASSISTANCE AND OPERATOR SERVICES

The Act requires fair compensation for each completed call. This broad mandate includes compensation for DA and other OS calls.

APCC claims that "LECs generally do charge IPP providers for DA service on DA calls made from IPPs."¹³ SWBT is not allowed, however, to charge PSPs for DA calls in any of SWBT's service territories. APCC asks the Commission to ensure that IPP and LEC payphone providers are fairly compensated when DA calls are made from payphones. APCC suggests that such compensation should be in the form of a coin deposit for local DA calls.¹⁴ In addition to DA calls, end users also place many general assistance calls from payphones -- rate requests and dialing instructions, for

¹³ APCC at 22 (emphasis in original).

¹⁴ Id. at 23.

example. Today, Operator Services Providers (OSPs) such as SWBT are not compensated for these general assistance queries. SWBT agrees that compensation for DA and general assistance calls should ultimately be paid to the PSP by the end user, not by the LEC providing the service. It would be inequitable for the LEC both to pay per-call compensation to the PSP and to remain uncompensated for the costs of providing these services

IV. NONSTRUCTURAL SAFEGUARDS

AT&T (at page 20) claims that LECs “must provide access to unbundled network elements at TSLRIC-based prices.” AT&T suggests that consistency with requirement of Section 252(d)(1)(A) is needed. However, nothing in Section 276 imposes the pricing standards of Section 252 on pay telephone services. Section 252 refers specifically to negotiation, arbitration, and approval of interconnection agreements. The interconnection provisions of the Act are not applicable to access lines and coin functions provided under tariff to PSPs.

V. SUBSCRIBER LINE AND CARRIER COMMON LINE CHARGES

Georgia argues that the SLC should not apply to payphones at all, because payphones are not dedicated to a single end user.¹⁵ Coin service, however, uses a common line which allows payphones to access the public switched telephone network, just like any other common line service. Coin line service, except for certain optional features related solely to payphones, is the same as the service provided to all other end users. The patron of a payphone is no different than the patron of a hotel,

¹⁵ Georgia at 17-19.

and the common line used by a payphone should be treated no differently than the common line servicing the phone in the hotel room.

MCI asserts that "since LECs do not currently pay SLCs on their payphone lines, this [requiring LEC payphone operations to pay the SLC] will increase the LECs' SLC revenue, which must result in an equivalent reduction in the CCL charge."¹⁶ SWBT agrees that the CCL (Carrier Common Line) charge will be reduced if base period SLC revenues increase. Before SWBT can determine if base period SLC revenues have in fact increased, the multiline SLC must be recalculated by adding the remaining payphone revenue requirement (after set costs are removed) and the additional payphone line demand to the amounts underlying the current SLC. The revised base period SLC revenue would reflect any revenue change caused by the inclusion of the additional demand as well as any resulting change in the SLC.

NECA argues that "LECs should be permitted to continue billing CCL charges to interexchange carriers, and should not be required to impose a new charge to recover additional interstate costs associated with interstate payphone subscriber lines."¹⁷ NECA seems to believe that CCL charges would not be assessed to IXCs for payphone calls if the SLC is applied to payphone lines. This is mistaken. CCL charges will continue to be assessed for payphone calls, regardless of what happens to the SLC. The only effect of applying the SLC to payphone lines will be a possible reduction in the CCL charge assessed on all access minutes

VI. CONCLUSION

¹⁶ MCI at 17.

¹⁷ NECA at 5.

Consistent with the Act, the Commission should deregulate the local coin rate. This will ensure fair compensation for each completed payphone call and will stimulate the full competition which the Act envisions.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE COMPANY

By Paul Walters

Robert M. Lynch
Durward D. Dupre
Mary W. Marks
J. Paul Walters, Jr.

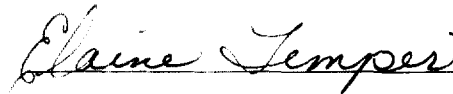
Attorneys for
Southwestern Bell Telephone Company

One Bell Center, Room 3520
St. Louis, Missouri 63101
(314) 235-2507

July 15, 1996

Certificate of Service

I, Elaine Temper, hereby certify that the Comments of Southwestern Bell Telephone Company in docket 96-128, has been served this 15th day of July, 1996 to the Parties of Record.

A handwritten signature in cursive script, reading "Elaine Temper", is written over a horizontal line.

Elaine Temper

July 15, 1996

INTERNATIONAL TRANSCRIPTION SERVICES INC
1919 M STREET NW
SUITE 246
WASHINGTON DC 20554

FEDERAL COMMUNICATIONS COMMISSION
COMMON CARRIER BUREAU
ENFORCEMENT DIVISION
2025 M STREET RM 6008
WASHINGTON DC 20554
(2 COPIES)

ACTEL INC
P O BOX 391
CEDAR KNOLLS NJ 07927

NEWTON M GALLOWAY
ATTORNEY FOR GEORGIA PUBLIC
COMMUNICATIONS ASSOCIATION
113 CONCORD ST
ZEBULON GA 30295

C DOUGLAS MCKEEVER
VICE PRESIDENT-FINANCE
INVISION TELECOM INC
1150 NORTHMEADOW PARKWAY STE 118
ROSWELL GA 30076

E ASHTON JOHNSTON
PAUL HASTINGS JANOFSKY & WALKER
COUNSEL FOR ARCH COMMUNICATIONS GROUP
1299 PENNSYLVANIA AVE NW 10TH FL
WASHINGTON DC 20004-2400

WILLARD C REINE
COUNSEL FOR MIDWEST INDEPENDENT
COIN PAYPHONE ASSOC
314 EAST HIGH STREET
JEFFERSON CITY MO 65101

JOHN F BEACH PA
COUNSEL FOR SOUTH CAROLINA PUBLIC
COMMUNICATIONS ASSOCIATION
1400 MAIN ST STE 1207
COLUMBIA SC 29202-0444

PAULA MUELLER
SECRETARY OF THE COMMISSION
PUBLIC UTILITY OF TEXAS
7800 SHOAL CREEK BLVD
AUSTIN TX 78757-1098

MARK J GOLDEN
VICE PRESIDENT-INDUSTRY AFFAIRS
PERSONAL COMMUNICATIONS INDUSTRY
ASSOCIATION
500 MONTGOMERY ST STE 700
ALEXANDRIA VA 22314-1561

CHARLES M BARCLAY AAE
PRESIDENT
AMERICAN ASSOCIATION OF AIRPORT
EXECUTIVES
4312 KING STREET
ALEXANDRIA VA 22302

PAUL J BERMAN
ALANE C WEIXEL
COVINGTON & BURLING
COUNSEL FOR ANCHORAGE TELEPHONE
UTILITY
1201 PENNSYLVANIA AVE NW
P O BOX 7566
WASHINGTON DC 20044-7566

BRYAN PETERSON
ASSISTANT VICE PRESIDENT
KOA KAMPGROUNDS OF AMERICA
P O BOX 30558
BILLINGS MT 59114

DEREK BLAKE
FINANCIAL MANAGER
AMERICAN AIRLINES ADMIRALS CLUB
P O BOX 619280
DALLAS/FORT WORTH AIRPORT TX 75261-9280

ALAN N BAKER
ATTORNEY FOR AMERITECH
2000 WEST AMERITECH CENTER DRIVE
HOFFMAN ESTATES IL 60196

MARY E BURGESS
ASSISTANT COUNSEL
STATE OF NEW YORK DEPARTMENT OF PUBLIC
SERVICE
THREE EMPIRE STATE PLAZA
ALBANY NY 12223-1350

DAVID COSSON
COUNSEL FOR NATIONAL TELEPHONE
COOPERATIVE ASSOCIATION
2626 PENNSYLVANIA AVE NW
WASHINGTON DC 20037

ALBERT H KRAMER
ROBERT F ALDRICH
DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
COUNSEL FOR AMERICAN PUBLIC
COMMUNICATIONS COUNCIL AND INMATE
CALLING SERVICES PROVIDERS COALITION
2101 L STREET NW
WASHINGTON DC 20037-1526

GENEVIEVE MORELLI
VICE PRESIDENT AND GENERAL COUNSEL
THE COMPETITIVE TELECOMMUNICATIONS
ASSOCIATION
1140 CONNECTICUT AVE NW STE 220
WASHINGTON DC 20036

MARK C ROSENBLUM
PETER H JACOBY
AT&T
295 NORTH MAPLE AVE
ROOM 3244J1
BASKING RIDGE NJ 07920

ERIC L BERNTHAL
MICHAEL S WROBLEWSKI
LATHAM & WATKINS
1001 PENNSYLVANIA AVE NW
SUITE 1300
WASHINGTON DC 20004

PETER ARTH JR
EDWARD W O NEILL
ATTORNEYS FOR THE PUBLIC UTILITIES
COMMISSION OF THE STATE OF CALIFORNIA
505 VAN NESS AVE
SAN FRANCISCO CA 94102

RACHEL J ROTHSTEIN
CABLE & WIRELESS INC
8219 LEESBURG PIKE
VIENNA VA 22182

ROBERT C CAPRYE
CONSULTING MANAGER
GVNW INC/MANAGEMENT
7125 SOUTHWESTERN BELL TELEPHONE
COMPANY HAMPTON ST
PORTLAND OR 97223

ROY L MORRIS
DIRECTOR
FRONTIER CORPORATION
1990 M ST NW STE 500
WASHINGTON DC 20036

CHARLES C HUNTER
HUNTER & MOW PC
TELECOMMUNICATIONS RESELLERS ASSOC
1620 I ST NW STE 701
WASHINGTON DC 20006

EDWARD C ADDISON
DIRECTOR
COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
BOX 1197
RICHMOND VA 23209

WILLIAM H SMITH JR CHIEF
BUREAU OF RATE AND SAFETY EVALUATION
IOWA UTILITIES BOARD
LUCAS STATE OFFICE BUILDING
DES MOINES IOWA 50319

THOMAS J MACBRIDE JR
KATHRYN A FUGERE
GOODIN MACBRIDGE SQUIRE SCHLOTZ &
RITCHIE LLP
COUNSEL FOR CALIFORNIA ASSOC OF
LONG DISTANCE TELEPHONE COMPANIES
505 SANSOME ST STE 900
SAN FRANCISCO CA 94111

JOE D EDGE
SUE W BLADEK
DRINKER BIDDLE & REATH
ATTORNEYS FOR PUERTO RICO TELEPHONE CO
901 FIFTEENTH ST NW
WASHINGTON DC 20005

ROBERT M BRILL ESQ
757 THIRD AVENUE 12TH FL
NEW YORK NY 10017

ANGELA B GREEN
GENERAL COUNSEL
FLORIDA PUBLIC TELECOMMUNICATIONS
ASSOCIATION
125 S GADSDEN ST STE 200
TALLAHASSEE FL 32301

LEON M KESTENBAUM
JAY C KEITHLEY
SPRINT CORPORATION
1850 M STREET NW 11TH FL
WASHINGTON DC 20036

ANN CASSIDY
ONE CALL COMMUNICATIONS INC d/b/a
OPTICOM
801 CONGRESSIONAL BLVD
CARMEL IN 46032

RICHARD A ASKOFF
NATIONAL EXCHANGE CARRIER ASSOC
100 SOUTH JEFFERSON ROAD
WHIPPANY NJ 07981

MARTIN A MATTES
GRAHAM & JAMES
COUNSEL FOR CALIFORNIA PAYPHONE
ASSOCIATION
ONE MARITIME PLAZA STE 300
SAN FRANCISCO CA 94111

GEORGE E YOUNG
ASSOCIATE GENERAL COUNSEL
STATE OF VERMONT
PUBLIC SERVICE BOARD
CHITTENDEN BANK BLDG
4TH FL - 112 STATE ST
DRAWER 20
MONTPELIER VT 05620-2701

BUTZEL LONG
COUNSEL FOR MICHIGAN PAY TELEPHONE
ASSOCIATION
118 WEST OTTAWA STREET
LANSING MI 48933

CATHERINE R SLOAN
RICHARD C FRUCHTERMAN
LDDS WORLDCOM
1120 CONNECTICUT AVE NW
SUITE 400
WASHINGTON DC 20036

E M THURMOND AAE
AIRPORT DIRECTOR
YUMA INTERNATIONAL AIRPORT
2191 EAST 32ND ST
YUMA AZ 85365

MICHAEL W WARD
JOHN F WARD JR
O KEEFE ASHENDEN LYONS AND WARD
COUNSEL FOR ILLINOIS PUBLIC
TELECOMMUNICATIONS ASSOCIATION
30 N LASALLE ST
SUITE 4100
CHICAGO IL 60602

WILLARD C REINE
COUNSEL FOR MIDWEST INDEPENDENT
COIN PAYPHONE ASSOCIATION
314 EAST HIGH ST
JEFFERSON CITY MO 65101

ROBERT F ALDRICH
DICKSTEIN SHAPIRO & MORIN & OSHINSKY
COUNSEL FOR GEORGIA PUBLIC
COMMUNICATIONS ASSOCIATION
2101 L STREET NW
WASHINGTON DC 20037-1526

RICHARD MCKENNA HQE03J36
GTE SERVICE CORPORATION
P O BOX 152092
IRVING TX 75015-2092

GLENN B MANISHIN
MICHAEL D SPECHT
BLUMENFELD & COHEN
COUNSEL FOR INTERNATIONAL TELECARD
ASSOCIATION
1615 M STREET NW STE 700
WASHINGTON DC 20036

JUDITH ST LEDGER-ROTY
REED SMITH SHAW & MCCLAY
1301 K ST NW STE 1100 - EAST TOWER
WASHINGTON DC 20005-3317

MITCHELL F BRECHER
FLEISCHMAN AND WALSH LLP
COUNSEL FOR ONCOR COMMUNICATIONS INC
1400 SIXTEENTH ST NW
WASHINGTON DC 20036

THOMAS K CROW
COUNSEL FOR EXCEL TELECOMMUNICATIONS
INC
2300 M ST NW STE 800
WASHINGTON DC 20037

ROGER B SKRYPCZAK
WISCONSIN PUBLIC COMMUNICATIONS
ASSOCIATION
W6246 COUNTY TRUNK BB
SUITE B
APPLETON WI 54915

MARY MCDERMOTT
LINDA KENT
UNITED STATES TELEPHONE ASSOCIATION
1401 H STREET NW STE 600
WASHINGTON DC 20005

DAVID GORIN
PRESIDENT
THE NATIONAL ASSOCIATION OF RV PARKS
AND CAMPGROUNDS
8605 WESTWOOD CENTER DR STE 201
VIENNA VA 22182-2231

SONDRA J TOMLINSON
U S WEST
1020 19TH ST NW STE 700
WASHINGTON DC 20036

MARTIN CINTRON
ASSISTANT COMMISSIONER
THE NEW YORK CITY DEPARTMENT OF
INFORMATION TECHNOLOGY AND
TELECOMMUNICATIONS
11 METROTECH CENTER
THIRD FLOOR
BROOKLYN NJ 11201

TERESA MARRERO
SENIOR REGULATORY COUNSEL
TELEPORT COMMUNICATIONS GROUP
TWO TELEPORT DRIVE STE 300
STATEN ISLAND NY 10301

CYNTHIA B MILLER
ASSOCIATE GENERAL COUNSEL
STATE OF FLORIDA
PUBLIC SERVICE COMMISSION
CAPITAL CIRCLE OFFICE CENTER
2540 SHUMARD OAK BLVD
TALLAHASSEE FL 32399-0850

THOMAS J MACBRIDE JR
KATHRYN A FUGERE
GOODIN MACBRIDE SQUIRE SCHLOTZ &
RITCHIE
COUNSEL FOR CALIFORNIA ASSOCIATION OF
LONG DISTANCE TELEPHONE COMPANIES
505 SANSOME ST STE 900
SAN FRANCISCO CA 94111

C DOUGLAS MCKEEVER
VICE PRESIDENT-FINANCE
COMMUNICATIONS CENTRAL INC
1150 NORTHMEADOW PARKWAY STE 118
ROSWELL GA 30076

ROBERT E COHN
SHAW PITTMAN POTTS & TROWBRIDGE
2300 N ST NW
WASHINGTON DC 20037

SUSAN DROMBETTA
MANAGER RATES AND TARIFFS
SCHEREER COMMUNICATIONS GROUP INC
575 SCHERERS COURT
WORTHINGTON OH 43085

M ROBERT SUTHERLAND
BELLSOUTH CORPORATION
1155 PEACHTREE ST NE STE 1700
ATLANTA GA 30309-3610

BETTY D MONTGOMERY
ATTORNEY GENERAL OF OHIO
PUBLIC UTILITIES SECTION
180 EAST BROAD STREET
COLUMBUS OH 43215-3793

MARY J SISAK
DONALD J ELARDO
MCI
1801 PENNSYLVANIA AVE NW
WASHINGTON DC 20006

TERRENCE J BUDA
ASSISTANT COUNSEL
COUNSEL FOR PENNSYLVANIA PUBLIC
UTILITY COMMISSION
P O BOX 3265
HARRISBURG PA 17105-3265

BLOSSOM A PERETZ
DIRECTOR
NEW JERSEY DIVISION OF THE RATEPAYER
ADVOCATE
31 CLINTON ST 11TH FL
NEWARK NJ 07101